United Nations CCPR/C/SR.2439

International Covenant on Civil and Political Rights

Distr.: General
16 April 2007

Original: English

Human Rights Committee
Eighty-ninth session

Summary record of the 2439th meeting
Held at Headquarters, New York, on Wednesday, 21 March 2007, at 3 p.m.

Chairperson: Mr. Rivas Posada

Contents

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations (*continued*)

Third periodic report of Barbados

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent *within one week of the date of this document* to the Chief, Official Records Editing Section, room DC2-750, 2 United Nations Plaza.

Any corrections to the record of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

07-27678 (E)

The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 40 of the Covenant and of country situations (*continued*)

Third periodic report of Barbados
(CCPR/C/BRB/3 and CCPR/C/BRB/Q/3)

1. *At the invitation of the Chairperson, the delegation of Barbados took places at the Committee table.*

2. **Sir Louis Tull** (Barbados) said that the delay in submitting the report had been due to a lack of adequate resources. Introducing the report, which had been drafted with extensive support from government ministries and civil society, he said that his Government had made it a priority to fulfil its obligations under the various human rights conventions to which it was party. It adhered firmly to the principles of the Universal Declaration of Human Rights, which had been incorporated into its domestic laws and international policies. It had been guided by the rule of law, good governance, social justice and equality in developing national legislation to guarantee and preserve the fundamental rights and freedoms of its people. The Universal Declaration of Human Rights served as the basis for the country's Constitution and its Bill of Rights, which guaranteed many basic freedoms and inalienable rights, such as the right to life, the right to personal liberty, protection from slavery and forced labour, protection from inhumane treatment, protection from discrimination and the right to fair trial.

3. Barbados had sought to achieve a high standard in the promotion and protection of human rights both domestically and internationally. In that connection, it had adopted laws to protect the fundamental rights of its people and had become party to many regional and international human rights instruments. Noting that Barbados had nothing to hide, he urged Committee members not to dwell solely on laws with which they disagreed, because such laws did not violate the Covenant and only reflected the cultural and social norms of Barbados as determined by the democratic will of its people.

4. **The Chairperson** invited the delegation to address the questions on the list of issues (CCPR/C/BRB/Q/3).

5. **Sir Louis Tull** (Barbados) said, with reference to question 1 of the list of issues, that while the Covenant itself had not been incorporated into domestic legislation, its principles were embodied in the country's Constitution. Moreover, sufficient safeguards had been built into the Bill of Rights and the legal system to protect the fundamental rights of its citizens. For example, under article 24(1) of the Constitution, an individual who believed that his or her rights had been or were likely to be violated by the State could apply to the High Court for redress (CCPR/C/BAB/3, para. 56). There had also been recent cases where individuals had taken the State to court and won for the alleged violation of their rights, including the right to legal counsel and the right to freedom of religion.

6. With reference to question 2, he said that the Committee's recommendations had been considered in the preparation of the country's report and in other actions on human rights. With regard to the Committee's first recommendation on guaranteeing the effective right of remedy for persons sentenced to death, the convicted person could appeal the verdict to the Court of Appeal or to the Governor General, who had the power to issue a pardon, amnesty or commutation of the death sentence on the advice of the Privy Council. The condemned person could also apply to the High Court for a stay of execution or appeal to the Caribbean Court of Justice and even to the Human Rights Committee. Even though the death penalty was on the statute books, there had been no execution in the country since 1983.

7. With regard to the Committee's second recommendation in its provisional concluding observations (symbol pending) that a legal definition of torture compatible with article 7 of the Covenant should be introduced, he drew attention to paragraph 243 of the report, adding that all requirements of the Covenant had long been met in Barbados and that the laws, procedures and processes were consistent with it.

8. Turning to the Committee's third recommendation for the State party to continue its efforts to improve conditions in detention facilities and expand rehabilitation programmes and procedures, he referred to paragraphs 314 to 320 of the report, adding that the sole prison on the island had burned down in 2005 and a new, state-of-the-art institution was being built to house 1,200 inmates, including separate self-contained units for men and women. While waiting for completion of the new facility, interim arrangements

had been made to house the prisoners elsewhere on the island under adequate conditions, taking all the necessary precautions to ensure that no prisoners escaped and no citizens were hurt.

9. With regard to the Committee's fourth recommendation to ensure that the new Constitution and all domestic legislation prohibited discrimination of all forms, including on the basis of sex, disability or sexual orientation, he said that Barbados had passed many laws over the previous 15 years for the protection of human rights and had made significant efforts to improve female representation in public life, including the creation of the Ministry of Social Transformation, the National Commission on HIV/AIDS, the Constitution Review Commission and the Committee for National Reconciliation. Basic human rights protections were enshrined in the Constitution and were guaranteed to all citizens of Barbados as well as foreigners living on the island.

10. Referring to the Committee's final recommendation to provide specific data on sexual exploitation and trafficking, he said that there were no reliable statistics because the country had never had to deal with such a crime before. Nevertheless, it recognized that the trafficking of women and children was an emerging issue that affected all countries and that had to be taken seriously. Accordingly, the Ministry of Social Transformation was working on a paper to be submitted to the Cabinet with recommendations and a plan of action for tackling the issue. At the regional level, Barbados was participating in the formulation of a pan-Caribbean approach, especially considering the porous boundaries between the different countries in the region.

11. In response to question 3 on the list of issues, he said that the Ombudsman was only mandated to investigate and report on allegations of improper, unreasonable or inadequate administrative conduct. It was the High Court that had original jurisdiction to hear and determine any application or question related to an alleged violation of a fundamental right or freedom. He did not see any need for the creation of a separate human rights commission, because it would only duplicate a wide range of mechanisms that already existed for the protection of human rights. Apart from the guarantees afforded under the Constitution and other domestic laws, there were other initiatives by the Government and NGOs that were very effective in that area. For example, legal aid was made available to citizens and foreigners alike, trade unions fought for workers' rights, an independent immigration review commission looked after the rights of immigrants, an independent Police Complaints Authority investigated complaints of ill-treatment and misconduct by the police; public programmes and broadcast time were used to educate the public about human rights issues; and people could take their cases of human rights violations to the High Court. Finally, even though the delegation did not see the need for a separate human rights commission, it would welcome any suggestions from the Committee on the relevance and possible role of such a body.

12. With respect to question 4, he said that the Vagrancy Act had been repealed in 1998 and replaced by the Minor Offences Act. The Vagrancy Act had been introduced more than a century ago, during the colonial period. As such, it had had some unsavoury aspects, which was why his Government had repealed it. The new Minor Offences Act covered offences such as disorderly conduct, harassment and indecent exposure. Although such offences were minor, provision was made for them to protect the integrity of the country. His Government changed laws, regardless of whether they were colonial or post-colonial, if they offended the ethos of the country. Laws were repealed as the need to do so arose.

13. Concerning question 5 as to whether the State party considered mandatory imposition of death sentences to be in compliance with the Covenant, his Government considered article 6 to be framed in such a way as to permit States which already imposed the death penalty to continue to do so. Furthermore, since many of the States parties had provided for mandatory forms of capital punishment in their domestic laws at the time of the drafting of the Covenant, and no express provision prohibiting mandatory capital punishment had been included in the Covenant, it would appear that the intention of the Covenant could hardly have been to exclude mandatory death sentences. In any event, the death penalty in Barbados was not mandatory in the sense of being arbitrary, or imposed without due process. In cases involving capital offences in Barbados, every opportunity was provided during a trial or from the time of arrest of the person in question to ensure access to legal representation. Full legal assistance was provided to those who could not afford to pay for legal representation, including throughout any appeals

process which might occur. The accused was always given a fair hearing.

14. Although there were understandable concerns within the international community about capital punishment, it was the law in Barbados and reflected the paramount will of the people. It was based on specific religious, moral and cultural traditions. More than 90 per cent of the people of Barbados were in favour of capital punishment. The death penalty in Barbados was therefore carried out in accordance with the law and did not involve the unrestrained exercise of will or uncontrolled power; it was not capricious or done without reasonable cause. His Government treated the issue seriously and took into account the views of the Committee on the mandatory imposition of death sentences. The issue was discussed at the public and private level, at call-in programmes, town-hall meetings and church group gatherings. The Government had not taken a decision at the moment, however, to repeal the death penalty.

15. With respect to question 6, he said that the constitutional amendment allowing the Governor General to set time parameters for matters pending before the Committee was intended to avoid unnecessary and undue delays in the appeals process. In cases involving a death sentence, the matter should be brought to a conclusion as quickly as reason and due process allowed. Barbados had experienced protracted appeals processes in the past. To redress the problem, the process was consolidated, without denying any avenue of appeal to anyone. The judgement of the Privy Council in *Earl Pratt and Ivan Morgan v. the Attorney General for Jamaica* — the Privy Council being the final appeals tribunal for Barbados until 2005 — had held that to keep someone beyond five years between the sentence of death and execution constituted cruel and inhumane treatment. His Government had sought to expedite the process so that it would not reach five years, without infringing on the rights of the convicted persons concerned. The constitutional amendment allowing the Governor General to set time constraints to ensure a swift and fair appeals process was not in any way incompatible with the obligations of Barbados as a State party to the Covenant and its first Optional Protocol.

16. Regarding question 7, on discrimination against persons with disabilities, the Government and people of Barbados were very concerned by the issue. The Government was committed to the development and enhancement of policies that would empower and protect persons with disabilities and had taken initiatives to move towards the integration and inclusion of such persons at every level of society and in all areas of national life, without any form of discrimination. Barbados fully supported the Convention on the Rights of Persons with Disabilities. It had passed legislation in keeping with the Standard Rules on the Equalization of Opportunities for Persons with Disabilities. It had doubled the number of teachers in its schools to deal with children with special needs and disabilities and had integrated children with disabilities into regular schools. Barbados had also made efforts to raise awareness about the human worth of persons with disabilities. It had taken practical steps to promote the rights of persons with disabilities such as the establishment of new building standards and the construction of ramps and accessible facilities. Efforts were being made to adapt the transportation system to their needs. There was an island-wide installation of signalized pedestrian crossings with audio and visual indicators for impaired persons. Sidewalks had been constructed and special parking spaces put in place to accommodate persons with disabilities. Lastly, an employment rights bill was at an advanced stage of preparation, which would provide specifically for their rights in that area.

17. On question 8, concerning participation of women in public life, there were no laws in Barbados which discriminated against women. Women and girls had equal access to education, health, employment and all other areas. Political parties in Barbados had the same rules for men and women. They considered the ability to field a high proportion of women candidates to be an asset. The numbers in every area of public life had improved radically over the previous 15 years. Out of 18 members of the Cabinet, five were women, which was considerable, as for many years there had been none. They occupied important posts, including Minister for Foreign Affairs and Foreign Trade, Deputy Prime Minister and Minister of Economic Affairs and Development. There were more women serving as judges on the High Court than men and six women magistrates out of a total of 10. In the private sector, women lawyers outnumbered their male counterparts fourfold and there were three times as many women medical doctors as men.

18. With respect to question 9, on same-sex relations, consensual adult homosexual acts were indeed

criminalized, under the Sexual Offences Act. It should be mentioned that the relations were not criminalized, but rather the act itself, and that involved only one such act: sodomy. The failure to recognize same-sex relations was based entirely on the social and religious customs and norms of Barbadian society. There were loud outcries against such recognition at church group, school, union and town-hall meetings whenever the issue was raised. The mores of Barbados, a small island country, should not be judged against those of larger countries.

19. Concerning question 10, on improper police conduct, he was nonplussed that the question had been raised, as there had hardly been any reports by citizens of any such abuse. There was a policy of zero tolerance in Barbados for the excessive use of force by law enforcement officials. The Government had established an authority to investigate any complaints of the excessive use of force or any misconduct by the police. That authority had very little to do, however, as complaints had been few and far between. The police force, for its part, had developed a training manual on the use of force, which was given to every police officer.

20. With regard to question 11, abuses committed against detainees in prisons were covered by the Prisons Act and statutory Prison Rules. The Rules set out with great specificity how prison officers must behave towards inmates. In the event of a breach of those rules, the prison officials in question must face the courts like anyone else for committing a criminal offence. There had been 10 cases of persons who had died in prison in the previous decade, all of them from natural causes. During a prison riot in 2001, one prisoner had been killed while attempting to escape. He had allegedly used force and refused to obey prison guard orders. The coroner's inquest into the prisoner's death was still pending, as it awaited the conclusions of a commission established by the Government to look into the incident. The commission, which included a former chief justice of Bermuda and a former High Court judge of Barbados, was currently conducting its investigation and was expected to submit its report to the Government in the coming months. Abuse of prisoners was not a common problem in Barbados.

21. With respect to question 12, on flogging children, corporal punishment was not outlawed as a mode of discipline in schools. The punishment was subject to guidelines and could not be applied excessively or inhumanely. The Government and the people of Barbados did not view corporal punishment as torture, or inhuman or degrading in itself. As they recognized that its improper use could amount to such, however, such punishment was very strictly regulated. There had been a few cases in previous years in which parents had sued for damages because of the excessive use of the punishment. Such cases were very rare, however, and the parents of Barbados generally had no difficulty with school teachers' applying reasonable corporal punishment to their children. Barbados followed closely the Convention on the Rights of the Child. It had established a student code of discipline in school. It had not abolished corporal punishment in school, however. There was provision for the flogging of children who had been sent to reform schools under certain circumstances. There was no current review of the issue of corporal punishment in schools, as the Government did not feel the need to do so.

22. **Mr. Shearer** welcomed the report, noting that it was comprehensive and detailed and observing that the drafting process itself, involving close cooperation of the organs of government and in many cases of representatives of civil society also, could often be more effective at revealing areas where a country needed to improve, and awakening a dedication to address them, than the comments of treaty oversight bodies. Referring to question 1 of the list of issues on the incorporation of the Covenant into Barbadian law, the Committee had noted that the Constitution of Barbados, like many others that had been written in the 1960s and 1970s, had an extensive chapter on human rights which was based on the Universal Declaration of Human Rights. The intent of the question, however, was whether or not the Constitution might in due course be amended to take account of the considerably more extensive definition of human rights contained in the Covenant, which had not been in force when Barbados had gained its independence in 1966.

23. Noting that the report stated that a Constitution Review Commission had made several recommendations, including "internationalization" of the Bill of Rights wherein full consideration would be given to international human rights norms, he sought information on the progress of the Commission's work and on when its recommendations might be placed before Parliament.

24. The Committee had noted that although there was provision under the Constitution and laws for any

person who considered that his or her rights had been breached by the State to seek redress before the courts, the delegation had stated that there had been no cases arising directly out of the Covenant. However, the report did refer to two cases, *Athelson Chase v. the Queen* and *Hinds v. the Queen*, which did seem to be relevant. He asked for some further detail on those cases: what particular human rights had been involved, how they had been dealt with, and what the results of the cases had been.

25. He also wished to address the question of the definition of torture, in connection with which the head of the delegation had questioned why it was necessary to say anything beyond describing how the matter was already covered by the laws of the country. He wondered whether there had perhaps been a misunderstanding: what was meant by the question was whether or not torture was defined in the laws of Barbados in the terms of article 1 of the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. That Convention gave an expanded definition of torture that the Committee had adopted, and the thrust of the question was whether Barbados was considering amending its legislation in order to take account of the most up-to-date definition of torture.

26. Turning to the issue of discrimination, he noted that the report referred to a Committee for National Reconciliation set up to facilitate a wide-ranging consultative process on the state of race relations in the country. The Committee was aware of the multiracial character of Barbados but nowhere in the report was there any mention of problems that would have necessitated such a committee.

27. **Ms. Palm** recalled that the delegation did not feel a need for a national human rights commission because there were many different commissions and institutions already active in that area. Since she did not have any information on the composition and degree of independence of such bodies, she had difficulty in evaluating how effective they would be. The importance of a national human rights commission was to act as an independent watchdog for human rights issues, publishing criticisms of the actions of the Government and its agencies in that area. With its mandate established by statute, it would be stronger than a non-governmental organization. She asked whether the country would be prepared in the future to consider examining the possibility of establishing such a body.

28. She had read with interest the passages in the report describing a number of actions taken to enhance the participation of women and listing how many men and women were in different positions. What was striking was that the most important positions were predominantly held by men. While the delegation had maintained that it was not possible to guarantee the results of attempts to increase women's participation, she suggested that the results depended on the training, education and possibilities for participation that people had. She would be interested in knowing whether the training courses offered to prospective female political candidates were going to be continued, as part of an attempt to get more women into decision-making positions.

29. While the delegation had said that there was zero tolerance for police brutality, nevertheless it did sometimes happen. She would appreciate information on the composition and functions of the independent body that investigated allegations of such misconduct. Had any cases actually been investigated or offenders prosecuted? With regard to similar misconduct in prisons, she noted that there had been a number of allegations that prison officers had beaten inmates, and that those officers had been charged and brought before the courts. She was interested in the outcome of those cases.

30. Turning to corporal punishment, she said that flogging could not only be an assault on a child's dignity but could also easily be characterized as degrading treatment, potentially bringing Barbados into difficulties under article 24 of the Covenant. She was saddened to hear that Barbados was not going to review the rules on corporal punishment, and asked whether there was any possibility of a change in the situation.

31. **Mr. Glélé-Ahanhanzo,** noting that the report showed higher percentages of tertiary education attendance for all minority groups than for blacks, asked how the delegation explained that discrepancy, and what was being done to reduce it. He also wondered whether such a gap in educational level was a factor in interracial tension.

32. Noting that the Vagrancy Act had been replaced in 1998 by the Minor Offences Act, he asked what was meant by "minor offences" and how they were treated.

However, the issue that was causing him the most trouble was that of the country's very rigid position on the death penalty and, in particular, mandatory death penalties. Observing that the overwhelming majority of the population was in favour of maintaining the death penalty, he asked whether the possibility might be envisaged of commuting death sentences into life imprisonment, and also asked about some specific cases in which it had been anticipated that the death sentences might indeed be commuted.

33. **Mr. O'Flaherty** welcomed the delegation's strong statement of support for the human rights of all persons, including those with disabilities, and the support that Barbados had expressed for the upcoming Convention on the Rights of Persons with Disabilities. However, the Committee had some information before it regarding the situation of disabled people in the country that gave grounds for some concern. For example, he wondered whether it was true that a National Advisory Committee on the Rights of Persons with Disabilities set up in April 2005 had not yet met. He also asked about the mandate of the body and, if it had indeed met, what its achievements had been.

34. Furthermore, the Barbados Council for the Disabled had reported that disabled people felt a general sense of exclusion from services and from the general life of society. They were the object of negative attitudes within various caring professions, including the medical profession, which seemed to see disabled people as asexual and thus failed to take sufficient account of their sexual needs. The Council had also felt that disabled people were not sufficiently included in policymaking in areas that concerned their own welfare, and governmental and non-governmental service providers were sorely in need of disability awareness training. He sought comments on those concerns.

35. Turning to the question on consensual same-sex sexual relations, he said that, at a minimum, the Committee should be grateful for the forthrightness of the delegation's answer. However, he had to note that its position was at odds with the law under the Covenant. The prohibition on consensual same-sex sexual relations was a violation of the non-discrimination provisions of the Covenant. While noting the expressed view that such actions could not be decriminalized owing to the mores and religious positions of the country's population, he asked nevertheless whether it was necessary to criminalize things with which one disagreed. Even if the lifestyles of sexual minorities were repugnant to the general population, he hoped the delegation would agree that the State still had a responsibility to protect such minorities against prejudice and discrimination.

36. For example, statistics showed that the exposure of the homosexual community of Barbados to HIV/AIDS was unusually high, but if that community was discriminated against, and its specific needs not concretely addressed by the State, that would constitute a failure by the State to protect them against HIV/AIDS. Given that the community's sexual behaviour was criminal, it would feel compelled to hide it, making it difficult, for example, for HIV/AIDS prevention programmes to reach that community. He noted that a study commissioned by the Attorney-General of Barbados in 2004 had recommended, in the context of combating HIV/AIDS, that consensual same-sex sexual relations should be decriminalized. He would be interested in the comments of the delegation on those issues in general, and, in particular, on what consideration had been given to the recommendations of the 2004 study.

37. **Sir Nigel Rodley**, praising the informative report and forthcoming responses, observed that he detected a strong "founding-fathers" approach to the interpretation of the Covenant by the delegation and the State party, not necessarily consistent with the canons of interpretation laid down in the Vienna Convention on the Law of Treaties, where content, object and purpose, and subsequent practice came into play. Those few States — small or large — that took the view that the Covenant was a fixed instrument beyond evolutive interpretation were simply wrong in international law. And since most States, when ratifying the Covenant, took the position that their law was compatible with it, such an approach would leave very little for the Committee to do. Furthermore, he had gotten a hint in Sir Louis's opening statement of an auto-interpretative approach to the Covenant, which was to say that the Covenant meant what the State party said it meant. Certainly that had been the stand of the Barbados Court of Appeal in the Bradshaw case in 1994, when it had contended that Barbados alone could determine what was a serious crime under article 6, paragraph 2, of the Covenant. If that was still the general position of Barbados, it would make for a rather difficult dialogue. Another dimension of that same interpretative style had been the several

references to public opinion as being determinant. Yet human rights were not a matter of public opinion; human rights were in fact sometimes a protection against public opinion, which could be in favour, for instance, of torture. Public opinion simply could not prevail over the clear obligation of a State under international law, especially in the field of human rights. If every individual was subject to the vagaries of public opinion, that would there and then spell the end of the human rights project.

38. On the issue of the death penalty, when the Committee referred to the mandatory death penalty as being arbitrary, it did not mean that it was capricious or necessarily unjust in all cases, but rather that the inherent inflexibility permitted capriciousness or unjustness by not allowing for any leeway in determining the appropriateness of a punishment as long as the offence itself was met. The problem was compounded, moreover, when a State did recognize that an offence could have different degrees, as in the case of murder in Barbadian law.

39. Furthermore, the constitutional time limit for the execution of a death sentence in Barbados raised the broader question of whether complaint proceedings in the Committee or in the Inter-American Court of Human Rights could be permitted to be taken into account in the application of the death penalty. In the Boyce and Joseph case, Barbados had commuted the death sentences because it could not envisage that the Inter-American Court could decide within the time limit, a position later upheld by the Caribbean Court of Justice. He asked whether the Government was satisfied with the current state of law regarding that whole matter that had resulted from that decision.

40. Regarding torture, defined in international law as the infliction of severe mental pain and suffering, it would be interesting to know what provisions there were in Barbadian law to protect against such treatment, as guaranteed under article 7 of the Covenant, and also to ensure the criminal prosecution of torturers.

41. The discussion in the report of the use of force by the police was very helpful. The applicability in Barbados of the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials was a very good standard indeed. The establishment of the Police Complaints Authority was another positive development, and he too would like to know more about its means of investigation and how it had disposed of the many cases of police assault that had been brought to it in 2004 and 2005 (report, para. 261), together with information on any 2006 cases.

42. The prison population was surprisingly high — roughly 300 per 100,000 inhabitants — for a small, tolerant society such as Barbados, and he would appreciate an explanation.

43. The question concerning corporal punishment had been intended more broadly, to ascertain to what extent Barbadian law allowed the judiciary to impose sentences of corporal punishment against any category of individual, children or otherwise, and against adults in prisons. He hoped that the answer would be not at all.

44. **Mr. Lallah**, expressing appreciation for Sir Louis's concise but comprehensive answers, observed that an admirable provision in the Constitution (sect. 24) gave special jurisdiction to the Supreme Court over the constitutional rights safeguarded in sections 12 to 23, thus giving it supremacy in matters of human rights. In Barbados, the Constitution prevailed over any inconsistent legislation (sect. 1), but it was unclear if the Supreme Court or some other authority pronounced on the constitutionality or not of a law and from which constitutional provision that competence was derived. Such a consideration became important in the case of constitutional rights not covered in sections 12 to 23, such as the political rights under article 25 of the Covenant, dealt with in Barbados by various service commissions. Also, since according to the Constitution (sect. 106), the decisions of such commissions could not be inquired into in any court of law, presumably they could still be inquired into by way of judicial review; otherwise, there would be no redress against decisions taken arbitrarily by a commission against a public servant. He wondered if the Supreme Court had such jurisdiction as well.

45. Also, he asked for clarification as to why sex was expressly cited in section 11 of the Constitution as a ground for prohibiting discrimination, but was omitted as a ground in the definition of discrimination in section 23, paragraph 1 (ii); and especially why section 23, paragraph 3 (b), said that no law could be attacked as discriminatory on the grounds of sex in relation to marriage and property rights and other matters of personal law. In view of the delegation's clear statement that no law in Barbados discriminated against women, he would appreciate an explanation of

that apparent violation of article 23, paragraph 4, of the Covenant.

46. It would be interesting to know if, after the establishment of the Caribbean Court of Appeal, the trend had been towards a greater number of appeals than had previously been the case under the Judicial Committee of the Privy Council, which would indicate better access to remedies.

The meeting was suspended at 5.35 p.m. and resumed at 5.50 p.m.

47. **Sir Louis Tull** (Barbados), thanking the Committee for its challenging and searching questions, said that the Constitution Review Commission chaired by the Attorney-General was in the process of drafting a new constitution for submission to Parliament before the end of 2007, and he would ask the Commission to consider incorporating aspects of the Covenant not in the current Constitution into the new one. He needed time to confer with the Office of the Attorney-General before answering the technical constitutional questions raised by Mr. Lallah.

48. He would certainly ask the Government to consider the establishment of a National Human Rights Commission, having himself been somewhat impressed by the Committee's arguments for doing so even though other independent bodies already had the power to call the Government to account.

49. The Police Complaints Authority — which, having been in operation for less than two years, had not received too many complaints — had the power to investigate all complaints and submit findings of police brutality or abuse to the Director of Public Prosecutions, who alone was responsible for the prosecution of criminal offences. The Authority was composed of a Chairman who was a former high court judge — the law stipulating that the chairman must have at least 10 years' experience; a retired senior police officer; and various laymen representing the church, the labour unions and other constituencies. It was a very independent group that accepted no dictates from the Government.

50. Judicial proceedings has already begun in the prison brutality case mentioned, and the 13 officers would be going to trial like any other citizens.

51. Regarding the practice of flogging in the schools and the prisons, he accepted Sir Nigel's view that public opinion was not enough of a standard. However, in that instance, there was a very strong sociocultural attitude in the country, and the Government paid the penalty if it ran roughshod over it. The Government and its people could not be at variance in matters of conscience. However, he would refer the Committee's comments to the Government and emphasize that the question of flogging might constitute degrading treatment.

52. The opportunities were there for women to participate in public life, but the society needed to be made more aware of the matter. Educational opportunities also had a formative role; and at the college and university level — in all faculties, traditional or not — the number of women enrolled exceeded the number of men by 2 to 1. That, of course, presented another social problem: the question of what was happening to the men of Barbados.

The meeting rose at 6 p.m.